



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

MAY 27 2015

Lisa Selmon Vance

Orlando, FL 32825

RE: MUR 6864
Nicholas Ruiz III for Congress, et al.

Dear Ms. Vance:

On May 19, 2015, the Federal Election Commission reviewed the allegations in your Complaint dated August 14, 2014, and found that on the basis of the information provided in your Complaint, and information provided by Respondents, there is no reason to believe Nicholas Ruiz III for Congress and Danielle Ruiz in her official capacity as treasurer and in her personal capacity, violated 52 U.S.C. § 30114(b)(1) (formerly 2 U.S.C. § 439a(b)(1)); 11 C.F.R. § 113.1(g)(1)(i)(H). Accordingly, on May 19, 2015, the Commission closed the file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which more fully explains the Commission's finding is enclosed.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8) (formerly 2 U.S.C. § 437g(a)(8)). If you have any questions, please contact Christine C. Gallagher, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

Daniel A. Petalas
Associate General Counsel for Enforcement

William Powers / w/p with permission

BY: William A. Powers
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Nicholas Ruiz III for Congress and Danielle Ruiz MUR 6864
in her official capacity as treasurer and in her personal capacity

I. INTRODUCTION

This matter was generated by a Complaint filed with the Federal Election Commission, alleging that Danielle Ruiz, the wife of candidate Nicholas Ruiz III ("Ruiz III"), and the treasurer and campaign manager of his principal campaign committee, Nicholas Ruiz III for Congress (the "Committee"), was "grossly overpaid for managing a virtually nonexistent campaign." See 52 U.S.C. § 30109(a)(1)(formerly 2 U.S.C. § 437g(a)(1)).¹ Specifically, the Complaint alleges that Danielle Ruiz and the Committee converted campaign funds to personal use in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), when the Committee made salary payments to her from November 2013 through April 2014 for "accounting, management, and compliance services" in excess of the fair-market value of the services she provided to the campaign. Compl. at 1-2 (Sept. 3, 2014).

Based on the available information, it appears that Danielle Ruiz provided *bona fide* services to the campaign and that the payments to Danielle Ruiz did not exceed the fair market value for her services. The payments therefore did not constitute "personal use" under the Act. The Commission thus finds no reason to believe that the Committee and Danielle Ruiz in her official capacity as treasurer and in her personal capacity, violated 52 U.S.C. § 30114(b)(1) (formerly 2 U.S.C. § 439a(b)(1)); 11 C.F.R. § 113.1(g)(1)(i)(H), in connection with the use of

¹ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act"), was transferred from Title 2 to the new Title 52 of the United States Code.

1 campaign funds to pay Danielle Ruiz for campaign manager and treasurer services she provided
2 to the campaign during the 2012 and 2014 election cycles.

3 **II. FACTUAL AND LEGAL ANALYSIS**

4 **A. Factual Background**

5 The Committee registered with the Commission as Ruiz III's principal campaign
6 committee on January 20, 2011, when Ruiz III was seeking the Democratic nomination to
7 represent Florida's 24th Congressional District. *See* Statement of Organization (Jan. 20, 2011).
8 It remained Ruiz III's principal campaign committee in 2012, when Ruiz III sought the
9 nomination in Florida's 7th Congressional District, *see* Amended Statement of Organization
10 (Jun. 18, 2012), and in 2014, when Ruiz III lost the Democratic primary in Florida's 9th
11 Congressional District. *See* Compl. at 1 (Aug. 14, 2014); Second Amended Statement of
12 Organization (Jan. 8, 2014). Throughout these campaigns, Danielle Ruiz served as the
13 Committee's treasurer. *Id.*

14 The Complainant alleges that Danielle Ruiz's \$500 per month salary for "accounting,
15 management, and compliance services" was excessive because she was "the single largest
16 recipient of campaign funds from [the Committee]." Compl. at 1. According to the Complaint,
17 Danielle Ruiz's salary amounted to more than one-third of the campaign's operating
18 expenditures over a nine-month period (*i.e.*, \$4,500 out of \$12,799.25), and the Committee paid
19 more for her salary than it did for campaign advertising. *Id.* at 1-2. Based on these allegations,
20 the Complainant asserts that Danielle Ruiz was "overpaid for managing a virtually nonexistent
21 campaign" and therefore the payments to her constituted prohibited "personal use" violations
22 under 11 C.F.R. § 113.1(g)(1)(i)(H). *Id.* at 2.

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1 Respondents deny the allegations in the Complaint and argue that the complainant
2 misrepresents the facts and that no violation of the Act has occurred. Resp. at 1-2.(Sept. 22,
3 2014). Respondents assert that Danielle Ruiz provided the “services of campaign manager,
4 treasurer, and compliance/accounting, etc.” and that, from July 2013 through April 2014 (the
5 period cited in the Complaint), the Committee paid her \$500 per month for those services. Resp.
6 at 1. Respondents further assert that this amount is “far below” the fair market value for
7 campaign management and committee treasurer services and rely on information from the
8 internet showing that an average salary for a campaign manager or treasurer would be
9 approximately \$30,000 to \$50,000 per year. *Id.* Respondents contend that Danielle Ruiz did not
10 receive \$500 each month for the entire time she was manager and treasurer for the Committee,
11 and that from May through August 2014, her salary averaged only \$200 per month. *Id.*
12 Respondents argue that Danielle Ruiz earned the salary payments she received, noting that the
13 campaign was covered on local television, radio, the internet, and in local advertising, as well as
14 on “national election media blogs and radiocasts.” Resp. at 2. Respondents also contest the
15 allegation that the campaign was “non-existent” and maintain that the “campaign garnered more
16 than a quarter of the entire electoral turnout in an incumbent primary election at a fraction of the
17 costs typically associated with a U.S. congressional campaign.” *Id.*

18 The Committee’s disclosure reports reflect 27 payments to Danielle Ruiz totaling
19 \$11,500 from June 20, 2011, through April 14, 2014, for administrative, treasurer, accounting,
20 management, and compliance services rendered to the Committee. *See* 2011-2014 Quarterly
21 Reports; 2011-2013 Year-End Reports. The payments were disbursed to her as follows:

Date(s) of Payment	Amount
Jun. 20, 2011	\$300
Jul. 7, 2011; Aug. 2, 2011; Sept. 6, 2011; Oct. 5, 2011; Nov. 16, 2011; Dec. 8, 2011; Jan. 4, 2012; Feb. 2, 2012; Mar. 5, 2012; Apr. 9, 2012; May 3, 2012	\$400
Jun. 8, 2012	\$300
Jul. 5, 2012	\$500
Aug. 6, 2012	\$400
Sept. 6, 2012	\$400
Dec. 4, 2012	\$200
Jul. 19, 2013; Aug. 6, 2013; Sept. 15, 2013; Oct. 21, 2013; Nov. 1, 2013; Dec. 3, 2013; Jan. 15, 2014; Feb. 15, 2014; Mar. 31, 2014; Apr. 14, 2014	\$500

See 2011, 2012, 2013, 2014 Quarterly Reports; 2011, 2012, 2013 Year-End Reports.

The Committee asserts that Danielle Ruiz was paid only \$200 per month from May through August 2014. Resp. at 1. However, payments for Danielle Ruiz's services during that period are not reflected in the Committee's disclosure reports. See 2014 July Quarterly Report; 2014 Pre-Primary Report; 2014 October Quarterly Report. Rather, the reports indicate that \$800 in loans Danielle Ruiz made to the Committee were repaid during that time. *Id.* The Committee's reports also disclose \$1,500 in debts owed to Danielle Ruiz for services after April 2014. *Id.* The Committee's 2014 Year-End Report discloses that Danielle Ruiz forgave this debt.

B. Legal Analysis

The Act prohibits the conversion of campaign funds to personal use. 52 U.S.C. § 30114(b)(1) (formerly 2 U.S.C. § 439a(b)(1)). The Commission's regulations define "personal use" as "use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder." 11 C.F.R. § 113.1(g). The regulation enumerates certain expenses as *per se* "personal use," including "salary payments to a member of the

1 candidate's family, unless the family member is providing *bona fide* services to the campaign. If
2 a family member provides *bona fide* services to the campaign, any salary payment in excess of
3 the fair market value of the services rendered is personal use." 11 C.F.R. § 113.1(g)(1)(i)(H);
4 *see* Expenditures; Reports by Political Committees; Personal Use of Campaign Funds, 60 Fed.
5 Reg. 7,862, 7,866 (Feb. 9, 1995) (Explanation & Justification). A candidate's spouse is a
6 "family member." 11 C.F.R. § 113.1(g)(7)(i).

7 Based on the available information, it appears that Danielle Ruiz provided *bona fide*
8 services to the campaign. The Committee asserts that the campaign received national and local
9 media attention and Ruiz III "garnered more than a quarter of the entire electoral turnout in an
10 incumbent primary election" as a result of Danielle Ruiz's managerial services. *Id.* at 2. And
11 while the Complaint relies extensively on the assertion that Ruiz III's campaign was
12 "nonexistent" to establish that Danielle Ruiz did not provide campaign management or other
13 services, even if true, that fact does not necessarily indicate that the Committee received no *bona*
14 *fide* services. Even a virtually "nonexistent" campaign would require continued compliance
15 services in advance of termination.

16 The available information also indicates that the Committee's payments to Danielle Ruiz
17 did not exceed the fair market value of her services. Respondents assert, relying on information
18 from the internet showing that an average salary for a campaign manager or treasurer would be
19 approximately \$30,000 to \$50,000 per year, that the salary Ruiz received for campaign
20 management and committee treasurer services is below the fair market value for the services
21 rendered. *Resp.* at 1. During the 2012 election cycle, the median salary payment to Danielle
22 Ruiz was \$400 a month, and during the 2014 election cycle — at which point Danielle Ruiz had
23 additional years' experience — the payments were \$500 a month. *See* chart *supra*.

1 The Commission thus finds no reason to believe that the Committee and Danielle Ruiz in
2 her official capacity as treasurer and in her personal capacity, violated 52 U.S.C. § 30114(b)(1)
3 (formerly 2 U.S.C. § 439a(b)(1)); 11 C.F.R. § 113.1(g)(1)(i)(H).

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